

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA ex rel. TED A.
ARKFELD, D.C. AND ANN MYERS,

Plaintiffs,

v.

Case No. 08-CV-10640-DT

MARVIN L. BLEIBERG, M.D., AND MEDICAL
REHABILITATION PHYSICIANS, PLC,

Defendants.

**ORDER DENYING RELATORS' "MOTION TO CONTINUE . . ."
AND ORDERING RELATORS TO SHOW CAUSE**

Before the court is the Relators' April 30, 2008 "Motion to Continue Maintaining the Complaint Under Seal for an Additional Sixty Days or, in the Alternative, to Reseal the Complaint for an Additional Sixty Days." The Government has submitted a response, and the court concludes a hearing is not necessary. See E.D. Mich. LR 7.1(e)(2). The court will deny the motion.

This complaint was brought under the False Claims Act and filed under seal pursuant to 31 U.S.C. § 3730(b)(2) pending the Government's decision on whether to intervene. On April 24, 2008, the Government filed a notice of its election not to intervene. Consistent with the False Claims Act, the action was unsealed and the Relators now have the option of proceeding on their own. See, *generally*, 31 U.S.C. § 3730(b). The Relators, however, have filed the instant motion, asking the court to reseal the complaint because they want to present this matter to the criminal division of the United States Attorneys Office for consideration of possible criminal prosecution. The Relators allege a general concern that the sealing is necessary to avoid the

possible destruction or alteration of evidence. (Mot. at 2-3.) The Government, however, has filed a response indicating that sealing is not necessary and is contrary to the public's right of access to court records. (Gov't's Resp. at 1-2.) The court agrees with the Government. The Relators have not presented any specific basis for their concern of evidence destruction. Moreover, the Relators' concern of evidence destruction is not even related to the instant litigation, inasmuch as they state that they will not be pursuing this case. Rather, Relators' concern is in relation to a possible criminal action by the Government. Because there is no such criminal action and, even if there were, the Government itself does not believe sealing is necessary, the court will not prohibit the public from accessing court records. Accordingly,

IT IS ORDERED that Relators' April 30, 2008 "Motion to Continue Maintaining the Complaint Under Seal for an Additional Sixty Days or, in the Alternative, to Reseal the Complaint for an Additional Sixty Days" [Dkt. # 6] is DENIED.

Further, in light of Relators' assertion that they will not be pursuing this action, (Mot. at 2.), Relators' are ORDERED TO SHOW CAUSE, in writing, on or before **May 27, 2008**, why the complaint should not be dismissed.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 19, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 19, 2008, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522